IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO. 367/2006

Mr. Domingos Barretto,
major, resident of H.No.149,
Colmorod, Navelim, Salcete, Goa. ..... Petitioner.

V/s.

1. Margao Municipal Council,
through its Chief Officer,
having Office at Margao, Goa

2. Mr. Joao Noronha,

3. Mr. Menino Noronha,
(son of Joao Noronha)
both majors, resident of H No.134,
Colmorod, Navelim, Salcete, Goa.

4. Mrs. Viola Fernandes,
r/o. House No.44A Raatwado,
Navelim, Salcete, Goa.

5. Mrs. Joseph Fernandes,
Colmorod, Navelim, Salcete, Goa.

6. Senior Town Planner,
S.G.P.D.A. Market,
Near Kadamba Bus Stand,
Margao, Goa. ..... Respondents.

Mr. S. D. Lotlikar, Senior Advocate with Mr. M. D'Souza, Advocate for the petitioner.

Mr. S. D. Padiyar, Advocate for the respondent No.1.

Mr. J. Godinho, Advocate for the respondent No.4.

Mr. S. Vahidulla, Addl. Govt. Advocate for the respondent No.6.

CORAM : S.A. BOBDE &
N.A. BRITTO, JJ.

DATE : APRIL 30, 2007.

ORAL JUDGMENT : (Per BOBDE, J.)

Rule, returnable forthwith. Heard by consent.

2. The only prayer of the petitioner is that the respondents be directed to asphalt the portion of the road from the point "D" to point "E" shown on the plan at page 55 of the petition. The learned Counsel for the respondent-Municipal Council does not admit the accuracy of the plan. He, however, states that the points referred to are clear.

3. The learned Counsel for the respondent-Municipal Council further states that the road from points "D" to "E" passes through private properties and the owners are not permitting asphalting of the said road unless the land is acquired. He further states that, therefore, the respondent-Municipal Council proposes to acquire the said land and that the asphalting would be done after the land is acquired.

4. Mr. Lotlikar, the learned Counsel for the petitioner states that the respondents propose to acquire more land than the land from the points "D" to "E" and that includes the land held by the petitioner. According to the petitioner this is being done by the respondent-Municipal Council only to

quit the petitioner's request for making this road asphalted. According to the learned Counsel for the respondent-Municipal Council, the proposal to acquire the land which belongs to the petitioner is older than the petitioner's request for having this road asphalted. However, we consider this aspect out side the scope of the petition and we do not propose to adjudicate thereon.

5. In the circumstances, the statement of the respondent-Municipal Council that they will asphalt the road from point “D” to point “E” after the land is acquired. We direct the respondent-Municipal Council to start the asphalting work at points “D” to “E” within one month from the date of acquisition of land.

6. Rule disposed of accordingly.

S.A. BOBDE, J.

N.A. BRITTO, J.

ssm.